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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 NYSSA R.,

10 Plaintiff,

11 v.

12 ANDREW M. SAUL,  
13 Commissioner of Social Security

14 Defendant.

Case No. 19-CV-178-RSL

ORDER AFFIRMING  
COMMISSIONER


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16 The Court has reviewed the entire record, including the Administrative Record, the  
17 memoranda of the parties, and the Report and Recommendation of United States Magistrate  
18 Judge Mary Alice Theiler.

19 The Court adopts the Report and Recommendation with one clarification. The Report  
20 and Recommendation indicates that plaintiff cited “no independent evidence supporting the  
21 existence of [limitations resulting from her migraines] and she did not allege those limitations or  
22 *even mention headaches at all* in her benefits application, function reports, or at the  
23 administrative hearing.” See Dkt. #15 at 5 (citing AR 35-100, 224, 264-71) (emphasis added).  
24 Although plaintiff indeed *mentioned* fibromyalgia and headaches in a disability report to the  
25 Commissioner (see AR 284), and briefly testified to receiving treatment for pseudoseizures and  
26 migraines during her administrative hearing (see AR 46), Judge Theiler’s contrary finding was  
27 not central to the outcome of her Report and Recommendation. The Court agrees with the  
28 conclusion of the Report and Recommendation, that plaintiff has not shown any harmful error in  
the ALJ’s failure to include migraine headaches as a severe impairment at step two of the  
ORDER AFFIRMING COMMISSIONER - 1

1 disability evaluation. See generally Dkt. #15 at 2-6; see also Buck v. Berryhill, 869 F.3d 1040,  
2 1048-49 (9th Cir. 2017).

3 The decision of the Commissioner is therefore AFFIRMED. The Clerk of Court shall  
4 direct copies of this Order to all counsel and to Judge Theiler.

5 DATED this 2<sup>nd</sup> day of January, 2020.

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8 Robert S. Lasnik  
9 United States District Judge  
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